

**FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF THE MEETING
MAY 2, 2017**

CALL TO ORDER 6:01 pm	A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. at the Earl Bennett Building, 1035 First Avenue West, Kalispell, Montana. Board members present were Gina Klempel, Mark Hash, Roger Noble, and Ole Netteberg. Cal Dyck had an excused absence. Kari Nielson and Mark Mussman represented the Flathead County Planning & Zoning Office. There were 16 people in the audience.
APPROVAL OF MINUTES 6:01 pm	Klempel motioned and Noble seconded to approve the April 4, 2017 minutes as written.
ELECTION OF OFFICERS 6:02 pm	Election of officers postponed until a full Board is present.
PUBLIC COMMENT <i>(Public matters that are within the jurisdiction of the Board 2-3-103 M.C.A)</i> 6:02 pm	None
MONICA HARRIS & LISA GILBERT (FCU-16-18) 6:03 pm	A request by Monica Harris & Lisa Gilbert for a conditional use permit to establish a 'Camp and Retreat Center' on property located within the Bigfork Zoning District and zoned <i>AG-20 Agricultural</i> . The applicant intends to develop a camp and retreat center incorporating a wilderness retreat with agricultural themed educational outdoor activities and 'artists in residence.' The subject property is located at 500 Wild Swan Trail and contains approximately 20 acres.
STAFF REPORT (FCU-16-18) 6:03 pm	Nielson reviewed Staff Report FCU-16-18 for the Board.

**BOARD
QUESTIONS
6:05 pm**

Klempel asked what size the guest house was.

Gilbert stated the guest house was 2400 square feet and the treehouse was 900 square feet.

**APPLICANT
PRESENTATION
6:05 pm**

Lisa Gilbert-500 Wild Swan Trail, Bigfork-stated she had owned the property since 2011. She talked about wanting to enjoy the peace and quiet of the property. She went over the history of the property, what buildings were on the property and the location of each of them. She talked about what they wanted to do, offer short term rentals and four (4) retreats per year. She talked about the current septic and the proposed updates to it.

Monica Harris-500 Wild Swan Trail, Bigfork-talked about some of the concerns that had been brought up by the neighbors including access issues, traffic, parking, wetlands, septic and noise; and potential mitigation of those concerns. As far as access, the Ferndale Fire Department confirmed no access issues. However, the applicants were willing to put turn-outs where feasible to ease two-way traffic. With regard to traffic, parking, and dust concerns, the applicants were willing to limit the cars for overnight stays to five (5) and the cars for the retreats to twelve (12). They would also give verbal/written instructions to guest to drive slowly and pay for palliative/oil measure to prevent dust. Sands Surveying was hired to confirm that the proposed use would not impact the wetlands, and Environmental Health confirmed that the septic system would also not have an impact on the wetlands. And finally, to mitigate the impact of potential noise, they would have a vegetation buffer with additional trees, a curfew for guests and not allow microphones or loud music outside.

Ryan Purdy-341 Central Ave, Whitefish-stated he is the attorney representing the applicant. He talked about the previous Conditional Use Permit that was issued to the Stoddard's on this same property stating that the request was almost identical to what was being proposed today. He spoke to Ken Kalvig's letter regarding legality of an easement stating that this was not the venue to argue that point.

**BOARD
QUESTIONS
6:47 pm**

None

**PUBLIC
COMMENT
6:47 pm**

Diana Williams-9195 Highway 35, Bigfork-talked about Harris' love of the area and spoke in favor of the application.

Virgil Jackson had lived in Bigfork for the past 8 years. He supported this application.

Katie Brown-104 Swanlea, Bigfork-spoke to the applicants integrity and was in favor of the application.

Carolina Cotman-199 Drew Lane, Bigfork-was the director of the foundation that owns the property at 199 Drew Lane. She wrote a letter allowing turn-outs on her property and was in favor of the application. She spoke about the willingness of the applicants to work with the neighbors regarding their concerns.

Richard Bagley-30390 Loon Lake Road, Bigfork-agreed with all previous speakers and was in support of the application.

Mitch Heuer-641 Wild Swan Trail, Bigfork-was concerned about setting a precedent for other property owners. He was also concerned about enforceability.

Johnna Hiatt-384 Julian Lane, Bigfork-was concerned about her horses and was also concerned with personal safety.

Cliff Palmer-378 Wild Swan Trail, Bigfork-was opposed to the application. He was concerned about the amount of people that would be on the property, the value of his property and the noise. He was also concerned about the scope and volume of the short term rentals and the hours of operation.

The Board took a short break.

Fred Hodgeboom-1125 Whispering Pines, Bigfork-talked about the time that went into developing a neighborhood plan. He stated the applicant knew what the property was zoned when they bought it and shouldn't be able to apply for conditional uses. He was concerned about the wetlands and the location of the drain fields. He was also concerned about egress during a fire.

Cheryl Palmer-378 Wild Swan Trail, Bigfork-was concerned about youth camps and the closeness of the retreat center to her property line. She was also concerned about property values and was very concerned about the noise.

Ken Kalvig-100 Cooperative Way, Ste 202, Kalispell-spoke to the comment made that this application was almost identical to the one already granted for this property; stating that they were very different. He spoke to Ryan Purdy's comment regarding the legality of the easements stating that this was the venue to discuss this issue. He talked about the application being for short term rentals which are not allowed in the County at this time, the proximity of the retreat center to the Palmer's residence and the noise factor issue. He talked about the road width issues and the safety of pedestrian and horses.

**BOARD
DISCUSSION
7:56 pm**

Klempel asked Hodgeboom if he thought Wild Urban Interfacing would make a difference.

Hodgeboom said it depended on the type of fire.

Hash explained the CUP process and asked the planning office how the Board could solve the road issue. They discussed at length what that would entail in a condition and how that condition could adequately address the road concerns.

Hash asked how many people could be on the property at any one time.

Nielsen stated 15 for the retreats and up to 12 per day in the rentals.

Noble asked about the duration of the retreats.

Gilbert stated 4 day maximum.

Hash talked about noise being a factor both with this application and with the prior application.

Harris discussed this at length. She stated that the retreat center would most likely only be used for approximately 4 months per year.

Noble asked if the conditional use could sunset with the applicant.

Mussman stated yes.

Hash asked Kalvig about the width of the roads.

Hash asked Purdy how the access issues could be addressed. Purdy explained that they had permission from some of the property owners to make turn outs on their properties.

Netteberg asked if there was a road user's agreement in place.

Purdy stated no and explained what the easements stated.

Hash asked about dust abatement on both Julian and Drew Lane.

Harris stated that the dust abatement was for Drew Lane only.

The Board discussed the widening of the road at length and a condition to mitigate traffic concerns.

Hash asked about hours of operation.

The applicant stated that 8:30 am to 8:30 pm were acceptable.

The Board and the applicant discussed the definition of quiet time.

Klempel discussed her concerns regarding the usable space on the property, concern for the neighborhood as well as wildfire concerns.

Harris discussed the wildfire concerns stating that they had put a pump in to draw water from the pond and a turnabout for the fire department.

**MAIN MOTION
TO ADOPT F.O.F.
WITH
MODIFICATIONS
(FCU-16-18)
8:37 pm**

Noble made a motion seconded by Netteberg to adopt the Findings-of-Fact with the following modifications.

Finding #2 – The access to the property ~~has the potential to~~ will be suitable because the applicants ~~are willing to~~ will widen the road where feasible and provide turnouts to accommodate traffic and provide adequate access.

Finding #5 – The proposed traffic circulation ~~does not appear to~~ will be appropriately designed because the applicants will widen Drew Lane in places

does not support two-way traffic but could be mitigated by widening the road in places and installing turnouts where appropriate.

Finding #11 – The proposed use may not have *will not have unacceptable* impacts on streets because the camp and retreat center will be accessed off of an inadequate roadway in terms of width for the proposed use but can *because Drew Lane will be widened where feasible and turnouts will be installed where necessary* be mitigated through road widening and installation of turnouts where necessary.

Finding #12 – The proposed use has the potential to *will not have an unacceptable* impact on the surrounding neighborhood negatively because *hours of operation will be limited*. of potentially inappropriate hours of operation but can be mitigated or shortened to limit the effects of the camp and retreat center to the immediate neighborhood.

Finding #13- The proposed camp and retreat center appears to create a level of traffic that may need mitigation because Drew Lane and Wild Swan Trail are one-lane, private gravel roadways that would require additional maintenance if the camp and retreat center is approved as an additional 30 ADT would be added to the roadway, a 30 percent increase in traffic. *It appears the traffic level at the camp and retreat center will be acceptable because Drew Lane will be improved in accordance with recommendations from a traffic engineer.*

**BOARD
DISCUSSION
8:43 pm**

None

**ROLL CALL TO
ADOPT F.O.F. AS
MODIFIED
8:43 pm**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO APROVE
(FCU-16-18)
8:46 pm**

A motion was made by Noble to approve the Conditional Use Permit with modifications to conditions. The board started discussing modifications and realized more discussion was needed.

Noble withdrew his motion.

**BOARD
DISCUSSION
8:47 pm**

The Board and staff discussed the maximum number of people that will be on the property at one time and the additional vegetative buffer.

**MAIN MOTION
TO APPROVE
WITH
MODIFICATIONS
(FCU-16-18)
8:52 pm**

Noble made a motion seconded by Netteberg to accept Staff Report FCU-16-18 as modified and approve the Conditional Use Permit with the following modifications to the conditions:

4. The applicant shall limit the number of guests on the property at any one time to 15 guests to reduce impacts from traffic generated by the camp and retreat center. *Daytime retreats shall not exceed four days in length, four times per year.*
9. Additional trees and other vegetative buffer shall be installed/planted along the southern boundary of the lot to achieve a 50% visual screen within 3 years of planting to sufficiently screen the camp and retreat center activities. *The type of screening (i.e. trees and/or berms) shall be determined with consultation with the property owners to the south of the subject property.*
15. Quiet hours for the camp and retreat center shall start at ~~8:30PM~~ ~~10:00PM~~ and end at ~~8:00AM~~ ~~8:30AM~~ and be implemented seven days a week.
- 19. The applicants shall widen the road in places and install turnouts on Drew Lane to ease traffic concerns as identified by a traffic engineer.*
- 20. This Conditional Use Permit shall sunset upon the sale of the subject property.*

**ROLL CALL TO
APPROVE WITH
MODIFICATIONS
9:01 pm**

On a roll call vote the motion passed 3-1 with Klempel dissenting.

**OLD BUSINESS
9:02 pm**

None

**NEW BUSINESS
9:03 pm**

None

**ADJOURNMENT
9:04 pm**

The meeting was adjourned at approximately 9:04 pm on a motion Noble. The next meeting will be held at 6:00 pm on June 6, 2017.


Mark Hash, Chairman


Danene Thornton, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: le le /17